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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,891	11/04/2003	Mayu Yamada	244823US90	3487

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EXAMINER	
SAFAIPOUR, BOBBAK	

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
06/07/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/699,891	YAMADA ET AL.	
	Examiner	Art Unit	
	Bobbak Safaipour	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Action is in response to Applicant's response filed on 3/13/2007. Claims 1-12 are still pending in the present application. This action is made **FINAL.**

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Hayama et al (US 7,006,484)**.

Consider **claim 1**, Makela et al disclose a mobile communication system comprising:

a determination unit configured to designate layers of data (figures 2-4, 7A-7D; col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37; read as layered information) for transmission to

respective ones of base stations for mobile stations of respective radio areas (col. 2, lines 14-17; read as plural mobile stations and plural base stations), the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base stations (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37; allocating the frame with a higher transmission priority to a channel with better communication quality in which factors such as transmission power and diffusion ratio are adjusted) so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources (col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37); and

a radio transmitter configured to transmit the data to the mobile stations according to the designation of the determination unit (col. 2, lines 12-13).

Consider **claim 2**, Makela et al disclose a radio network controller comprising:

a determination unit configured to designate layers of data (figures 2-4, 7A-7D; col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37; read as layered information) for transmission to respective ones of base stations for mobile stations of respective radio areas (col. 2, lines 14-17; read as plural mobile stations and plural base stations), the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base stations (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37; allocating the frame with a higher transmission priority to a channel with better communication quality in which factors such as transmission power and diffusion ratio are adjusted) so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources (col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37); and

a data transmitter configured to transmit the data to the base stations according to the designation of the determination unit (col. 2, lines 12-13).

Consider **claim 6**, Makela et al disclose a base station comprising:

a determination unit configured to designate layers of data (figures 2-4, 7A-7D; col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37; read as layered information) for transmission to respective ones of mobile stations of respective radio areas (col. 2, lines 14-17; read as plural mobile stations and plural base stations), the designation being based on area resource information concerning radio resources for the respective radio areas covered by the base station (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37; allocating the frame with a higher transmission priority to a channel with better communication quality in which factors such as transmission power and diffusion ratio are adjusted) so that the layers of data are selectively provided to the respective radio area in correspondence with available radio resources (col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37); and

a radio transmitter configured to transmit the data to the mobile stations according to the designation of the determination unit (col. 2, lines 12-13).

Consider **claim 10**, Makela et al disclose a base station comprising:

a notification unit configured to notify a radio network controller of area resource information concerning radio resources for respective radio areas covered by the base station

(figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37; allocating the frame with a higher transmission priority to a channel with better communication quality in which factors such as transmission power and diffusion ratio are adjusted);

a data receiver configured to receive data being layered for the respective radio areas transmitted from the radio network controller based on the area resource information notified by the notification unit so that the layered data is selectively provided by layer to the respective radio area in correspondence with available radio resources (col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37); and

a radio transmitter configured to transmit the data received by the data receiver to the mobile stations for the respective radio areas (col. 2, lines 12-13).

Consider **claim 12**, Makela et al disclose a communication method comprising:

determining as to layers of data to be transmitted by base stations to mobile stations for respective radio areas, based on area resource information concerning radio resources for the respective radio areas covered by the base stations (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37; allocating the frame with a higher transmission priority to a channel with better communication quality in which factors such as transmission power and diffusion ratio are adjusted) so that the layered data is selectively provided by layer to the respective radio area in correspondence with available resources (col. 2, lines 1-13, col. 5, line 49 to col. 6, line 37); and

a data transmitter configured to transmit the data to the base stations according to a determination of the determination unit (col. 2, lines 12-13).

Consider **claim 3**, and **as applied to claim 2 above**, Makela et al disclose the claimed invention wherein the determination unit determines the layers from among the data being layered (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37), and the data transmitter transmits the data of the layers determined by the determination unit. (col. 2, lines 12-13)

Consider **claim 4**, and **as applied to claim 2 above**, Makela et al disclose the claimed invention wherein a layered data converter configured to layer the data for the respective radio areas using the layering methods determined by the determination unit, wherein the data transmitter transmits the data layered by the converter (figures 2-4, 7A-7D; col. 5, line 49 to col. 6, line 37).

Consider **claim 5**, and **as applied to claim 2 above**, Makela et al disclose the claimed invention wherein a resource information receiver configured to receive the area resource information from the base stations, the determination unit determines based on the area resource information received by the resource information receiver (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37).

Consider **claim 7**, and **as applied to claim 6 above**, Makela et al disclose the claimed invention wherein the determination unit determines the layers from among the data being layered (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37), and the radio transmitter transmits the data of the layers determined by the determination unit. (col. 2, lines 12-13)

Consider **claim 8**, and **as applied to claim 6 above**, Makela et al disclose the claimed invention wherein a layered data converter configured to layer the data for the respective radio areas using the layering methods determined by the determination unit (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37), wherein the radio transmitter transmits the data layered by the converter. (col. 2, lines 12-13)

Consider **claim 9**, and **as applied to claim 6 above**, Makela et al disclose the claimed invention wherein a resource information collection unit configured to collect the area resource information, wherein the determination unit determines based on the area resource information collected by the resource information collection unit (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37).

Consider **claim 11**, and **as applied to claim 10 above**, Makela et al disclose the claimed invention wherein a resource information collection unit configured to collect the area resource information, wherein the notification unit notifies of the area resource information collected by

the resource information collection unit. (figures 2-4, 7A-7D; col. 2, lines 1-13, 25-43; col. 5, line 49 to col. 6, line 37)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building

401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Bobbak Safaipour
B.S./bs

May 17, 2007

EDAN ORGAD
PRIMARY PATENT EXAMINER

5/23/07